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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GOOGLE LLC,

Plaintiff and Counterdefendant,

v.

SONOS, INC.,

Defendant and Counterclaimant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA

**DECLARATION OF COLE B.
RICHTER IN SUPPORT OF
GOOGLE'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED (DKT. 515)**

I, Cole B. Richter, declare as follows and would so testify under oath if called upon:

1. I am an attorney with the law firm of Lee Sullivan Shea & Smith LLP, counsel of record to Sonos, Inc. (“Sonos”) in the above-captioned matter. I am a member in good standing of the Bar of the State of Illinois. I have been admitted *pro hac vice* in this matter. I make this declaration based on my personal knowledge, unless otherwise noted. If called, I can and will testify competently to the matters set forth herein.

2. I make this declaration in support of Google’s Administrative Motion to Consider Whether Another Party’s Material Should be Sealed filed on February 21, 2023 (Dkt. 515) (“Administrative Motion to Consider”), in connection with Google’s Opposition to Sonos, Inc.’s (“Sonos”) Summary Judgment Regarding Google’s Contract-Related Claims (“Opposition”).

3. Sonos seeks an order sealing the materials as listed below¹:

Document	Portions Google Sought to Be Filed Under Seal	Portions Sonos Seeks to Be Filed Under Seal	Designating Party
Google’s Opposition	Portions highlighted in blue and green	Same portions highlighted in blue and green	Sonos
Exhibit 1	Entire document	Entire document	Sonos
Exhibit 2	Entire document	Entire document	Sonos
Exhibit 3	Entire document	Entire document	Sonos
Exhibit 4	Entire document	Entire document	Sonos
Exhibit 5	Entire document	Entire document	Sonos
Exhibit 6	Entire document	Entire document	Sonos
Exhibit 7	Entire document	Entire document	Sonos
Exhibit 8	Entire document	Entire document	Sonos
Exhibit 9	Entire document	Entire document	Sonos
Exhibit 10	Entire document	Entire document	Sonos
Exhibit 11	Entire document	Entire document	Sonos
Exhibit 13	Entire document	Entire document	Sonos

¹ Google’s Administrative Motion to Consider also seeks to seal Exhibits 12 and 37. Sonos’s advises that Exhibits 12 and 37 do not contain Sonos confidential information and/or material.

Document	Portions Google Sought to Be Filed Under Seal	Portions Sonos Seeks to Be Filed Under Seal	Designating Party
Exhibit 14	Entire document	Entire document	Sonos
Exhibit 17	Entire document	Entire document	Sonos
Exhibit 18	Entire document	Entire document	Sonos
Exhibit 19	Entire document	Entire document	Sonos
Exhibit 20	Entire document	Entire document	Sonos
Exhibit 21	Entire document	Entire document	Sonos
Exhibit 22	Entire document	Entire document	Sonos
Exhibit 24	Entire document	Entire document	Sonos
Exhibit 26	Entire document	Entire document	Sonos
Exhibit 27	Entire document	Entire document	Sonos
Exhibit 28	Entire document	Entire document	Sonos
Exhibit 29	Entire document	Entire document	Sonos
Exhibit 30	Entire document	Entire document	Sonos
Exhibit 31	Entire document	Entire document	Sonos
Exhibit 33	Entire document	Entire document	Sonos
Exhibit 34	Entire document	Entire document	Sonos
Exhibit 35	Entire document	Entire document	Sonos
Exhibit 36	Entire document	Entire document	Sonos
Exhibit 38	Entire document	Entire document	Sonos
Exhibit 40	Entire document	Entire document	Sonos
Exhibit 41	Entire document	Entire document	Sonos

4. I understand that the Ninth Circuit has recognized two different standards that may apply to a request to seal a document, the “compelling reasons” standard and the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). The compelling reasons standard applies to any sealing request made in connection with a motion that is “more than tangentially related to the merits of a case.” *Id.* Accordingly, I understand courts in this district apply a “compelling reasons” standard to a

1 sealing request made in connection with a motion for summary judgment. *See, e.g., Snapkeys,*
 2 *Ltd. v. Google LLC*, No. 19-CV-02658-LHK, 2021 WL 1951250, at *2 (N.D. Cal. May 14, 2021).

3 5. I further understand that confidential technical information about product features,
 4 architecture, and development satisfies the “compelling reason” standard. *See Delphix Corp. v.*
 5 *Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding
 6 compelling reasons to seal where court filings contained “highly sensitive information regarding
 7 [an entity’s confidential] product architecture and development”); *Guzik Tech. Enters., Inc. v. W.*
 8 *Digital Corp.*, No. 5:11-CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013)
 9 (sealing exhibit containing “significant references to and discussion regarding the technical
 10 features” of a litigant’s products). I also understand that courts have found the compelling
 11 reasons standard satisfied where parties sought to seal “terms” that “if public, could be used by
 12 both Plaintiff’s and its partners’ competitors to give them an unfair advantage in the development
 13 and negotiations of rival products.” *Unlockd Media Inc. v. Google LLC*, 21-cv-07250-HSG, at *2
 14 (N.D. Cal. Sep. 30, 2022). Under this “compelling reasons” standard, the Court should order the
 15 above-listed documents sealed.

16 6. The green highlighted portions in Google’s Opposition reference and contain Sonos’s
 17 confidential business information and trade secrets, including terms to a confidential agreement
 18 that is not public. Specifically, that agreement shows the terms on which Sonos works with
 19 content service providers to integrate their content into Sonos’s system, a regularly part of
 20 Sonos’s commercial work. Disclosure of this information would harm Sonos’s competitive
 21 standing by giving Sonos’s competitors highly sensitive information about Sonos’s business
 22 dealings with those entities. Sealing this information would thus “prevent competitors from
 23 gaining insight into [Sonos’s] business model and strategy.” *In re Qualcomm Litig.*, No. 3:17-cv-
 24 0108-GPC-MDD, at *4 (S.D. Cal. Nov. 8, 2017). A less restrictive alternative than sealing said
 25 documents would not be sufficient because the information sought to be sealed is Sonos’s
 26 confidential business information and trade secrets and Google contends that this information is
 27
 28

1 necessary to Google's Opposition. *See* declaration of Jocelyn Ma in support of Google's
 2 administrative motion to seal. Dkt. 516-1, ¶ 4.

3 7. The blue highlighted portions in Google's Opposition, and Exhibits 1-11, 13, 14, 17-
 4 22, 24, 26-31, 33-36, 38, 40, 41, reference and contain Sonos's confidential business information
 5 and trade secrets, including Sonos's research and development processes. The specifics of how
 6 these functionalities and processes operate is confidential information that Sonos does not share
 7 publicly. For example, this information includes details regarding Sonos's technical goals,
 8 strategies for implementing those technical aims, and a wide variety of granular details regarding
 9 how Sonos ended up implementing those proprietary technical achievements. Thus, public
 10 disclosure of such information may lead to competitive harm as Sonos's competitors could use
 11 these details regarding the architecture and functionality of these products to gain a competitive
 12 advantage in the marketplace with respect to their competing products. The blue highlighted
 13 portions also include details regarding Sonos's management of different types of commercial
 14 partners and internal communications at Sonos regarding collaboration with different entities. As
 15 with the green highlighted portions discussed above, disclosure of these details would harm
 16 Sonos's competitive standing by giving Sonos's competitors highly sensitive information about
 17 Sonos's business dealings with those entities. A less restrictive alternative than sealing said
 18 documents would not be sufficient because the information sought to be sealed is Sonos's
 19 confidential business information and trade secrets and Google contends that this information is
 20 necessary to Google's Opposition. *See* declaration of Jocelyn Ma in support of Google's
 21 administrative motion to seal. Dkt. 516-1, ¶ 4.

22 8. Sonos's request is narrowly tailored to protect its confidential information.

23 I declare under penalty of perjury that the foregoing is true and correct to the best of my
 24 knowledge. Executed this 28th day of February, 2023 in Chicago, Illinois.

25
 26 /s/ Cole B. Richter

27 COLE B. RICHTER